



U.S. OFFICE OF SPECIAL COUNSEL

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September 28, 2017

Mr. Noah Bookbinder
Executive Director
Citizens for Responsibility and Ethics in Washington
455 Massachusetts Avenue, N.W., 6th Floor
Washington, DC 20001

Re: OSC File No. HA-17-4341

Dear Mr. Bookbinder:

This letter is in response to the complaint you filed with the U.S. Office of Special Counsel (OSC) alleging that Ambassador Nikki Haley violated the Hatch Act when she retweeted a political message from President Donald Trump via her @nikkihaley Twitter account. The June 19, 2017 tweet endorsed then-congressional candidate Ralph Norman. For the reasons explained below, OSC has concluded that Ambassador Haley violated the Hatch Act. In response, we issued her a warning letter.

The Hatch Act restricts certain political activities of federal executive branch employees, except for the President and the Vice President. 5 U.S.C. §§ 7321-7326. Accordingly, as Ambassador to the United Nations, Ambassador Haley is covered by the Hatch Act and prohibited from, among other things, using her official authority or influence for the purpose of interfering with or affecting the result of an election. 5 U.S.C. § 7323(a)(1). For example, under this provision, she may not use her official title while engaging in political activity or her official position to advance or oppose candidates for partisan office. Political activity is defined as activity directed toward the success or failure of a political party, candidate for a partisan political office, or partisan political group. 5 C.F.R. § 734.101.

OSC's investigation confirmed that on June 19, Ambassador Haley retweeted the following tweet from President Trump, "Ralph Norman, who is running for Congress in SC's 5th District, will be a fantastic help to me in cutting taxes, and" We learned that @nikkihaley is Ambassador Haley's personal Twitter account, which she used before she was Ambassador to the United Nations, and she does not have any other Twitter accounts. At the time of the retweet at issue, her Twitter profile picture was an official government headshot with the American flag displayed behind her, and her Twitter header picture was a photograph of Ambassador Haley with President Trump and other members of the United Nations Security Council in a room at the White House. Her profile information listed her as "United States Ambassador to the United Nations," and many of her posts and photographs were about and of official matters.¹ In

¹ Not all of the content on her Twitter account was official at that time. There were personal posts and photographs as well.

addition, the homepage of the official website for the United States Mission to the United Nations included a link to the @nikkihaley account.

As stated above, the Hatch Act prohibits federal employees from using their official position to advance or oppose candidates for partisan office. Here, because Ambassador Haley's personal Twitter account included so much indicia of her official role as Ambassador and was even linked to the United States Mission to the United Nations website, it gave the impression that she was acting in her official capacity when she used this account to retweet President Trump's message. And retweeting that message, which endorsed a candidate in a congressional election, constituted political activity under the Hatch Act. Thus, OSC has concluded that Ambassador Haley violated the Hatch Act when she retweeted President Trump's June 19 message about Ralph Norman on an account that repeatedly invoked her official position as Ambassador to the United Nations.

Once Ambassador Haley became aware that her retweet may have violated the Hatch Act, she deleted the post. And OSC has found no evidence that she engaged in any additional prohibited political activity via Twitter. Thus, although we have concluded that Ambassador Haley violated the Hatch Act, we have decided not to pursue disciplinary action and are closing the above-referenced file without further action.

OSC has provided Ambassador Haley with advice on how to avoid additional violations of the Hatch Act with her Twitter account in its current form. And OSC has advised Ambassador Haley that if in the future she engages in prohibited political activity while employed in a position covered by the Hatch Act, we will consider such activity to be a willful and knowing violation of the law, which could result in further action pursuant to 5 U.S.C. § 1215.

If you have any questions regarding this matter, please call me at (202) 804-7054.

Sincerely,

A handwritten signature in black ink, appearing to read "Erica S. Hamrick". The signature is fluid and cursive, with the first name "Erica" being more prominent.

Erica S. Hamrick
Deputy Chief
Hatch Act Unit